

AMENDED IN ASSEMBLY MAY 2, 2007

AMENDED IN ASSEMBLY APRIL 17, 2007

AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1428

Introduced by Assembly Member Galgiani

February 23, 2007

An act to amend Section 2827.9 of the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1428, as amended, Galgiani. Energy: ~~agricultural waste biogas digester and manure-fueled~~ customer-generator pilot program.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, as defined. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. Under existing law, electric service providers, as defined, are required to provide eligible customer-generators with net energy metering, as defined. Under existing law, electrical corporations are required to provide eligible biogas digester customer-generators, that commence operation by December 31, 2009, with net energy metering, as defined, under a pilot program.

This bill would ~~replace~~ *include certain manure-fueled electrical generating facilities in the existing pilot program for*, which the bill would recast to apply to eligible ~~biogas digester~~ customer-generators with a pilot program for eligible ~~agricultural waste~~ customer-generators, as defined.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 2827.9 of the Public Utilities Code is
2 amended to read:
- 3 2827.9. (a) (1) The Legislature finds and declares that a pilot
4 program to provide net energy metering for eligible ~~agricultural~~
5 ~~waste biogas digester and manure-fueled~~ customer-generators
6 would enhance the continued diversification of California's energy
7 resource mix and would encourage the installation of livestock air
8 emission controls that the State Air Resources Board believes may
9 produce multiple environmental benefits.
- 10 (2) The Legislature further finds and declares that the net energy
11 metering pilot program authorized pursuant to this section for
12 eligible ~~agricultural waste biogas digester and manure-fueled~~
13 customer-generators, which nets out generation charges against
14 generation charges on a time-of-use basis, furthers the intent of
15 Chapter 7 of the Statutes of 2001, First Extraordinary Session, by
16 facilitating the implementation of energy efficiency programs in
17 order to reduce consumption of energy, reduce the costs associated
18 with energy demand, and achieve a reduction in peak electricity
19 demand.
- 20 (b) As used in this section, the following definitions apply:
- 21 (1) "Electrical corporation" means an electrical corporation, as
22 defined in Section 218.
- 23 (2) (A) "Eligible ~~agricultural waste~~ customer-generator" means
24 a customer of an electrical corporation that meets both of the
25 following criteria:
- 26 (i) Uses an eligible ~~manure-fueled~~ electrical generating facility
27 with a capacity of not more than one megawatt that is located on
28 or adjacent to the customer's owned, leased, or rented premises,
29 is interconnected and operates in parallel with the electric grid,
30 and is sized to offset part or all of the eligible ~~agricultural waste~~
31 customer-generator's own electrical requirements.
- 32 (ii) Is the recipient of local, state, or federal funds, or who
33 self-finances pilot projects designed to encourage the development
34 of eligible ~~manure-fueled~~ electrical generating facilities.

(B) Notwithstanding subparagraph (A), up to three large ~~manure-fueled~~ *biogas digester* electrical generating facilities with a generating capacity of more than one megawatt and not more than 10 megawatts, otherwise meeting the criteria of this section, shall be eligible for participation in the pilot program.

(3) “Eligible ~~manure-fueled~~ electrical generating facility” means a generating facility used to produce electricity by either a manure methane production project, as a byproduct of the anaerobic digestion of biosolids and animal waste, or through thermal decomposition or other means of conversion of *manure*.

(4) “Manure” means any substance composed primarily of animal excrement, plant remains, or mixtures of those substances, *containing no municipal solid waste, producing no discharge to surface or ground waters of the state, and containing or producing no hazardous waste.*

(5) “Net energy metering” means measuring the difference between the electricity supplied through the electric grid and the difference between the electricity generated by an eligible ~~agricultural-waste~~ customer-generator and fed back to the electric grid over a 12-month period as described in subdivision (e). Net energy metering shall be accomplished using a time-of-use meter capable of registering the flow of electricity in two directions. If the existing electrical meter of an eligible ~~agricultural-waste~~ customer-generator is not capable of measuring the flow of electricity in two directions, the eligible ~~agricultural-waste~~ customer-generator shall be responsible for all expenses involved in purchasing and installing a meter that is able to measure electricity flow in two directions. If an additional meter or meters are installed, the net energy metering calculation shall yield a result identical to that of a time-of-use meter.

(c) Every electrical corporation shall file with the commission a standard tariff providing for net energy metering for eligible ~~agricultural-waste~~ customer-generators, consistent with this section. Every electrical corporation shall make this tariff available to eligible ~~agricultural-waste~~ customer-generators upon request, on a first-come-first-served basis, until the combined statewide cumulative rated generating capacity used by the eligible ~~agricultural-waste~~ customer-generators in the service territories of the three largest electrical corporations in the state reaches 50 megawatts *for eligible biogas digester facilities and 20 megawatts*

1 *for any other eligible manure-fueled facilities.* An eligible
2 ~~agricultural waste~~ customer-generator shall be eligible for the tariff
3 for the life of the eligible ~~manure-fueled~~ electrical generating
4 facility.

5 (d) Each net energy metering contract or tariff shall be identical,
6 with respect to rate structure, all retail rate components, and any
7 monthly charges, to the contract or tariff to which the same
8 customer would be assigned if the customer was not an eligible
9 ~~agricultural waste~~ customer-generator, except as set forth in
10 subdivision (e). Any new or additional demand charge, standby
11 charge, customer charge, minimum monthly charge,
12 interconnection charge, or other charge that would increase an
13 eligible ~~agricultural waste~~ customer-generator's costs beyond those
14 of other customers in the rate class to which the eligible ~~agricultural~~
15 ~~waste~~ customer-generator would otherwise be assigned are contrary
16 to the intent of this legislation, and shall not form a part of net
17 energy metering tariffs.

18 (e) The net energy metering calculation shall be made by
19 measuring the difference between the electricity supplied to the
20 eligible ~~agricultural waste~~ customer-generator and the electricity
21 generated by the eligible ~~agricultural waste~~ customer-generator
22 and fed back to the electric grid over a 12-month period. The
23 following rules shall apply to the annualized metering calculation:

24 (1) The eligible ~~agricultural waste~~ customer-generator shall, at
25 the end of each 12-month period following the date of final
26 interconnection of the eligible ~~manure-fueled~~ electrical generating
27 ~~system facility~~ with an electrical corporation, and at each
28 anniversary date thereafter, be billed for electricity used during
29 that period. The electrical corporation shall determine if the eligible
30 ~~agricultural waste~~ customer-generator was a net consumer or a net
31 producer of electricity during that period. For purposes of
32 determining if the eligible ~~agricultural waste~~ customer-generator
33 was a net consumer or a net producer of electricity during that
34 period, the electrical corporation shall aggregate the electrical load
35 of an agricultural operation under the same ownership, including,
36 but not limited to, the electrical load attributable to operating the
37 agricultural production facility, and water pumping located on
38 property adjacent or contiguous to the property on which the
39 eligible ~~manure-fueled~~ *electrical* generating facility is located.

1 Each aggregated account shall be billed and measured according
2 to a time-of-use rate schedule.

3 (2) At the end of each 12-month period, where the electricity
4 supplied during the period by the electrical corporation exceeds
5 the electricity generated by the eligible ~~agricultural waste~~
6 customer-generator during that same period, the eligible
7 ~~agricultural waste~~ customer-generator is a net electricity consumer
8 and the electrical corporation shall be owed compensation for the
9 eligible ~~agricultural waste~~ customer-generator's net kilowatthour
10 consumption over that same period. The compensation owed for
11 the eligible ~~agricultural waste~~ customer-generator's consumption
12 shall be calculated as follows:

13 (A) The generation charges for any net monthly consumption
14 of electricity shall be calculated according to the terms of the tariff
15 to which the same customer would be assigned to or be eligible
16 for if the customer was not an eligible ~~agricultural waste~~
17 customer-generator. When those eligible ~~agricultural waste~~
18 customer-generators are net generators during any discrete
19 time-of-use period, the net kilowatthours produced shall be valued
20 at the same price per kilowatthour as the electrical corporation
21 would charge for retail kilowatthour sales for generation, exclusive
22 of any surcharges, during that same time-of-use period. If the
23 eligible ~~agricultural waste~~ customer-generator's time-of-use
24 electrical meter is unable to measure the flow of electricity in two
25 directions, paragraph (4) of subdivision (b) shall apply. All other
26 charges, other than generation charges, shall be calculated in
27 accordance with the eligible ~~agricultural waste~~
28 customer-generator's applicable tariff and based on the total
29 kilowatthours delivered by the electrical corporation to the eligible
30 ~~agricultural waste~~ customer-generator. To the extent that charges
31 for transmission and distribution services are recovered through
32 demand charges in any particular month, no standby reservation
33 charges shall apply in that monthly billing cycle.

34 (B) The net balance of moneys owed shall be paid in accordance
35 with the electrical corporation's normal billing cycle.

36 (3) At the end of each 12-month period, where the electricity
37 generated by the eligible ~~agricultural waste~~ customer-generator
38 during the 12-month period exceeds the electricity supplied by the
39 electrical corporation during that same period, the eligible
40 ~~agricultural waste~~ customer-generator is a net electricity producer

1 and the electrical corporation shall retain any excess kilowatthours
2 generated during the prior 12-month period. The eligible
3 ~~agricultural waste~~ customer-generator shall not be owed any
4 compensation for those excess kilowatthours.

5 (4) If an eligible ~~agricultural waste~~ customer-generator
6 terminates service with the electrical corporation, the electrical
7 corporation shall reconcile the eligible ~~agricultural waste~~
8 customer-generator's consumption and production of electricity
9 during any 12-month period.

10 (f) No eligible ~~manure-fueled~~ electrical generating facility shall
11 be eligible for participation in the tariff established pursuant to
12 this section, that has not commenced operation by December 31,
13 2009. An eligible ~~agricultural waste~~ customer-generator shall be
14 eligible for the tariff established pursuant to this section, only for
15 the operating life of the eligible ~~manure-fueled~~ electrical generating
16 facility.

17 (g) No ~~manure-fueled~~ electrical generating facility that is subject
18 to the best available control technology (BACT) requirements shall
19 be eligible for participation in the tariff pursuant to this section
20 unless the ~~manure-fueled~~ electrical generating facility has installed
21 the best available control technology as required by the ~~regional~~
22 ~~air pollution control~~ *applicable air pollution control district or air*
23 *quality management* district at the time of installation to ensure
24 the maximum feasible reductions in toxic and criteria pollutants.

25 (h) On or before December 31, 2008, the commission, in
26 collaboration with the State Air Resources Board, shall report to
27 the Legislature all of the following information:

28 (1) The impact of the pilot program on emissions of air
29 pollutants.

30 (2) The impact of the pilot program on the reliability of the
31 transmission and distribution grid.

32 (3) The impact of the pilot program on ratepayers.